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Attorneys for Defendants  
GREYSTONE NEVADA, LLC and U.S.  
HOME CORP.

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

FULTON PARK UNIT OWNERS'  
ASSOCIATION, a Nevada non-profit  
community association, individually and in its  
representative capacity, LEON TURNER, an  
individual, individually and in his  
representative capacity; MICHAEL  
CROWDER, an individual, individually and  
in his representative capacity; TRICIA  
CROWDER, an individual, individually and  
in her representative capacity; RAINA  
MUSSER, an individual, individually and in  
her representative capacity; DOE  
HOMEOWNER/CONDOMINIUM/  
COMMUNITY ASSOCIATIONS 1-10,000;  
DOE HOMEOWNERS 1 – 250,000,

Plaintiffs,

vs.

PN, II, INC. d/b/a/ PULTE HOMES OF  
NEVADA, a Nevada corporation; D.R.  
HORTON, INC., a Delaware corporation;  
ROE INDIVIDUALS 1-10,000, individuals;  
ROE BUSINESS or GOVERNMENT

CASE NO.: 2:11-cv-00783-NDF-MLC

Consolidated with:  
Case No.: 2:08-cv-1223,  
Case No.: 2:11-cv-00783;  
Case No.: 2:11-cv-00812;  
Case No.: 2:11-cv-00830;  
Case No.: 2:11-cv-1498;  
Case No.: 2:12-cv-00206;  
Case No.: 2:12-cv-00207;  
Case No.: 2:12-cv-00002;  
Case No.: 2:11-cv-00425

**DEFENDANTS GREYSTONE NEVADA,  
LLC'S AND U.S. HOME CORP.'S  
OPPOSITION TO PLAINTIFFS'  
MOTION FOR LEAVE TO FILE AN  
AMENDED CONSOLIDATED  
COMPLAINT AGAINST NON-UPONOR  
DEFENDANTS (Doc. 84)**

ENTITIES 10,001 – 20,000, including  
Nevada corporations,

Defendants.

AND CONSOLIDATED CASES

COME NOW Defendants GREYSTONE NEVADA, LLC and U.S. HOME CORP., by  
and through their counsel, PAYNE & FEARS LLC and JONES DAY, and file their opposition to  
plaintiffs' motion for leave to file an amended complaint against the non-Uponor defendants  
(Doc. 84).

This Opposition is made and based upon the following memorandum of points and  
authorities, the Court records and pleadings filed in this matter, and any oral argument adduced  
by counsel at the hearing on this matter.

Dated: January 31, 2014

Respectfully submitted,

By: /s/ Richard S. Ruben

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HOME CORP.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Through the instant motion for leave to amend (the “Motion”) (Doc.84), plaintiffs seek a third bite at the class certification apple. Following extensive briefing and argument on class certification, the Court denied certification altogether as to defendants Greystone Nevada, LLC and U.S. Home Corp. (collectively, “Greystone”) and the other non-Uponor defendants. In denying certification, the Court found that plaintiffs failed to establish commonality, and ordered as follows:

- “[A]ll claims brought by homeowner Plaintiffs, seeking to represent others similarly situated, against all non-Uponor Defendants are DISMISSED WITH PREJUDICE.”
- “[A]ll claims brought by common interest community Plaintiffs owning community property, seeking to represent other common interest communities similarly situated, against all non-Uponor Defendants are DISMISSED WITH PREJUDICE.”
- “[A]ll non-class claims brought by homeowner Plaintiffs in their individual capacities and all non-class claims alleging common constructional defects within a single development shall ... be adjudicated in [this] new lead case....”
- “Within thirty (30) days from the date of this order, Plaintiffs alleging [non-class] claims against non-Uponor Defendants shall file an Amended Complaint....

Neither new parties nor new claims may be added without leave of Court.”

(Memorandum Opinion and Order Containing Findings of Fact and Conclusions of Law Granting in Part and Denying in Part Plaintiffs’ Motion to Certify Class (“Certification Order,” Dkt. No. 1206 in 2:08-cv-1223, filed Nov. 27, 2013), at 58-63 (emphasis in original).)

As a preliminary matter, dismissal with prejudice requires that a subsequent motion for leave to amend as to the dismissed claims be denied. *Schmier v. U.S. Court of Appeals for Ninth Circuit*, 279 F.3d 817, 824 (9th Cir. 2002). If plaintiffs wish to challenge the dismissals with

1 prejudice, their remedy is to seek appellate or writ review, not simply to ignore them and proceed  
2 as if the dismissals were without prejudice.

3 Plaintiffs subsequently moved for “clarification and/or reconsideration” of the  
4 certification order. (Dkt. No. 1211 in 2:08-cv-1223, filed Dec. 24, 2013.) Plaintiffs noted that  
5 “the order appears to dismiss with prejudice the individual-homeowner Plaintiffs’ class claims  
6 against the non-Uponor Defendants in their entirety.” (*Id.*, at 3.) Plaintiffs then “ask[ed] this  
7 Court to clarify that the order does not foreclose the individual-homeowner Plaintiffs’ ability to  
8 pursue claims against the non-Uponor Defendants, including their contractors, for similarly  
9 situated individuals within their own developments.” (*Id.*)

10 In response, the Court restated that it “dismissed with prejudice all class claims brought  
11 against all non-Uponor Defendants.” (Order on Plaintiffs’ Motion for Clarification  
12 (“Clarification Order,” Dkt. No. 1223 in 2:08-cv-1223, filed Jan. 22, 2014), at 2 (emphasis  
13 added).) “Further, the Court [again] admonished Plaintiffs that the amended complaint may not  
14 add new parties or new claims without leave of Court.” (*Id.*) “To avoid further confusion,” the  
15 Court even went so far as to list each plaintiff that may be included in the amended complaint.  
16 (*Id.*, at 3.) As the Court noted, Lamplight Square at Green Valley HOA (“Lamplight”) is the only  
17 plaintiff that may assert claims against Greystone in the amended complaint. (*Id.*)

18 Despite the clear language of the certification order, in which the Court expressly  
19 dismissed with prejudice all class claims against all non-Uponor defendants and ordered that no  
20 new parties or claims may be added to the amended complaint, and notwithstanding the clear  
21 language of the clarification order, in which the Court reiterated its certification ruling and  
22 specifically listed each plaintiff that may assert claims in the amended complaint, plaintiffs now  
23 seek leave to assert class claims, add new plaintiffs, and add new claims (including claims that  
24 were dismissed with prejudice) in the amended complaint. Plaintiffs wholly ignore their failure to  
25 comply with the Court-ordered deadline for amendment.

26 **A. PLAINTIFFS FAILED TO TIMELY FILE AN AMENDED COMPLAINT**

27 The Court ordered plaintiffs to file an amended complaint against the non-Uponor  
28 defendants within 30 days from the date of the certification order. (*See* Certification Order, at

63.) The certification order is dated November 27, 2013, so the amended complaint was due by December 27, 2013. (*Id.*) On December 24 (three days before the amendment deadline), plaintiffs moved for clarification and/or reconsideration of the certification order. In that motion, plaintiffs acknowledged the December 27 amendment deadline and indicated they would timely file an amended complaint. (Plaintiffs’ Motion for Clarification and/or Reconsideration of Class Certification Order (“Clarification Motion,” Dkt. No. 1211 in 2:08-cv-1223, filed Dec. 24, 2013), at 3 fn. 1 (“The Court’s order requires Plaintiffs to file the Amended Complaint against the non-Uponor Defendants **later this week**. This Amended Complaint will comport with Plaintiffs’ current understanding of the Court’s order regarding the individual homeowners Plaintiffs’ [sic] class claims against the non-Uponor Defendants.” (emphasis added)).

Plaintiffs, however, did not file an amended complaint by December 27. They filed nothing until January 17, 2014, when they filed the instant motion for leave to amend. In their Chapter 40 status report, plaintiffs claim to have “inadvertently missed the Court’s deadline to file [the status report] due to a calendaring error.” (Plaintiffs’ Status Report as to Chapter 40 Compliance for Non-Uponor Defendants (Dkt. No. 1219 in 2:08-cv-1223, filed Jan. 17, 2014), at 2 fn. 1.) They do not make the same assertion with respect to the amended complaint – because they can’t. Plaintiffs acknowledged the deadline in their clarification motion and stated that they would comply. (Clarification Motion, at 3 fn. 1.) Instead, they chose to ignore the Court’s order, and have provided no explanation for their failure to comply.

#### **B. PLAINTIFFS IMPROPERLY INCLUDE CLASS ALLEGATIONS IN THE PROPOSED AMENDED COMPLAINT**

In contravention of the Court’s certification and clarification orders, plaintiffs continue to try to assert class claims against Greystone and the other non-Uponor defendants. Indeed, the class definition in the proposed amended complaint is virtually identical to that in the third amended complaint in *Slaughter* [Hartmann]:

The class consists of all similarly-situated homeowners and Nevada common-interest communities, as statutory claimants on behalf of themselves and their members (residence owners), and others in the Las Vegas Valley whose residences, or whose members’ residences, contain or contained the defective high-zinc

content yellow brass (i.e., brass containing 30% or more zinc by weight) plumbing components manufactured to be in conformance with ASTM F877, F1960 and/or F2080 and designed, developed, manufactured for and/or distributed by Uponor Corp., Uponor, Inc., Wirsbo Company, and/or Uponor Wirsbo Company ... and who have completed the NRS Chapter 40 process.

(*See* [Proposed] Amended Complaint Against Non-Uponor Defendants (“PAC,” Dkt. No. 87, filed Jan. 17, 2014), ¶ 122.) Plaintiffs also purport to assert their substantive claims on class wide bases. (*See* PAC, ¶¶ 132, 157, 165, 175, 196, 206, 214, 225.) Plaintiffs ignore the Court’s order “dismiss[ing] with prejudice all class claims brought against all non-Uponor Defendants.” (*See* Clarification Order, at 2; Certification Order, at 63.) This alone requires that leave to amend be denied. *See Schmier*, 279 F.3d at 824.

### C. PLAINTIFFS IMPROPERLY INCLUDE NEW PARTIES AS AGAINST GREYSTONE IN THE PROPOSED AMENDED COMPLAINT

Lamplight was the only plaintiff that asserted claims against Greystone in the third amended complaint in *Slaughter*. (*See* Dkt. No. 741, filed March 14, 2013.) Lamplight was the only plaintiff that attempted to certify claims against Greystone in *Slaughter*. (*See* Amended Motion for Class Certification (Dkt. No. 692, filed Jan. 28, 2013).) In denying certification, the Court ordered that no new parties may be included in the amended complaint. (Certification Order, at 63.) The Court even specifically identified Lamplight as the only party that may assert claims against Greystone in the amended complaint. (Clarification Order, at 3.) Regardless, plaintiffs include in the PAC claims against Greystone by Anthem Highlands Community Association (“Anthem”) and Fiesta Park Homeowners’ Association (“Fiesta Park”).<sup>1</sup> (PAC, ¶¶ 103-18.) Plaintiffs’ argument that this is necessary to reconcile this Court’s rulings with Judge Jones’ prior rulings, (*see* Motion, at 6-7), ignores both the facts and the law, as discussed below.

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<sup>1</sup> As discussed *infra*, to avoid duplicative litigation, Anthem’s and Fiesta Park’s remaining claims against Greystone, to the extent not already foreclosed, should only be litigated in the *Greystone Nevada, LLC, et al. v. Anthem Highlands Community Association* action (Case No. 1424-RCJ-CWH), not *Fulton Park*.

**D. PLAINTIFFS IMPROPERLY INCLUDE NEW CLAIMS AS AGAINST GREYSTONE IN THE PROPOSED AMENDED COMPLAINT, INCLUDING CLAIMS THAT HAVE ALREADY BEEN DISMISSED**

In separate lawsuits consolidated as *Greystone Nevada, LLC, et al. v. Anthem Highlands Community Association*, Case No. 1424-RCJ-CWH, Greystone sued the Anthem and Fiesta Park HOAs for declaratory relief, injunctive relief, and to compel arbitration based on arbitration provisions in home purchase agreements. In response, Anthem and Fiesta Park asserted their substantive claims against Greystone as counterclaims. Those substantive counterclaims included claims for strict products liability, negligent misrepresentation, and violation of Nevada's Deceptive Trade Practices Act. The Court dismissed each of these claims against Greystone.

The Court dismissed with prejudice the strict products liability claim because the economic loss doctrine and the Nevada Supreme Court's decision in *Calloway v. City of Reno*, 993 P.2d 1259, 1272 (Nev. 2000), preclude such claims. The Court held that "strict liability is not available based upon property damage to the building itself due to a defective component of the building itself." (Order (Dkt. No. 75 in 2:11-cv-1424, filed July 9, 2012), at 11-12.) Anthem and Fiesta Park sought reconsideration of this ruling, but their motion was denied. (Dkt. No. 156 in 2:11-cv-1424, filed Jan. 14, 2013.) Such dismissal with prejudice further requires that leave to amend be denied here. *See Schmier*, 279 F.3d at 824.

The Court dismissed the negligent misrepresentation claim for lack of particularity. (Order (Dkt. No. 75 in 2:11-cv-1424, filed July 9, 2012), at 11.) The negligent misrepresentation claim in the PAC is virtually identical to the claim the Court previously dismissed. They both lack the requisite detail regarding misrepresentations allegedly made by Greystone. (*See id.*)

The Court dismissed the Deceptive Trade Practices Act claim after plaintiffs withdrew the claim as against Greystone. (Order (Dkt. No. 156, filed Jan. 14, 2013), at 8.) In response to Greystone's motions to dismiss, Anthem and Fiesta Park conceded the claim as fatally insufficient and "agreed to voluntarily withdraw [their] deceptive trade practices claim (fifth cause of action) against [Greystone]." (Dkt. No. 55 in 2:11-cv-1424, filed Apr. 30, 2012, at 27.) Ignoring these dismissals and the Court's orders not to assert any new claims, plaintiffs re-assert

1 each of these claims by Anthem and Fiesta Park against Greystone in the PAC.<sup>2</sup> (*See* PAC,  
2 ¶¶ 159-66, 180-200, 210-17.) Plaintiffs’ blanket reliance on Rule 15’s liberal amendment policy  
3 provides no explanation (and certainly no good cause) as to why these additional claims are  
4 permissible in light of the Court’s express rulings.

5 In addition, following the Court’s substantive dismissals of these counterclaims, the Court  
6 dismissed the remainder of Anthem’s and Fiesta Park’s counterclaims in *Greystone* for claim-  
7 splitting. The Court “specifically ordered [Anthem and Fiesta Park] to include [their remaining  
8 claims] in the TACCAP in the *Slaughter* case if they wished to maintain them. If they wish to  
9 abandon the claims altogether, that is [their] decision....” (Order (Dkt. No. 189 in 2:11-cv-1424,  
10 filed May 28, 2013), at 6.) Anthem and Fiesta Park never asserted those claims in *Slaughter*, nor  
11 did they seek to certify them. As a result, they are foreclosed from asserting them now. (*See id.*)

12 Even if Anthem and Fiesta Park were not so foreclosed, any remaining claims against  
13 Greystone must be litigated in *Greystone*, not *Fulton Park*. In dismissing the remaining  
14 counterclaims for claim-splitting, the Court determined that, because class claims relating to  
15 construction defects were “already brought directly in the *Slaughter* cases by the same attorneys  
16 representing the same putative class,” they should not also be litigated in *Greystone*. (*Id.*) Of  
17 course, the class claims in *Slaughter* have been dismissed with prejudice. In other words, there  
18 no longer is a risk of claim-splitting and, to the extent not already foreclosed, Anthem and Fiesta  
19 Park must assert any remaining claims in *Greystone* to avoid duplicative litigation.

20 One of the issues that still must be decided in *Greystone* (regardless of what happens to  
21 Anthem’s and Fiesta Park’s remaining counterclaims) is whether Anthem and Fiesta Park have  
22 complied with the pre-litigation requirements of Chapter 40. Chapter 40 compliance (and the  
23 proper scope of inspection rights) is a threshold issue with respect to both Greystone’s affirmative  
24 claims for declaratory relief and Anthem’s and Fiesta Park’s substantive counterclaims. The  
25 Court previously denied without prejudice Greystone’s motions to dismiss for failure to comply  
26 with Chapter 40, but ordered the HOAs to permit Greystone access to inspect homes covered by

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27 <sup>2</sup> Plaintiffs’ repeated efforts to ignore the Court’s orders and the legal effect of the  
28 dismissals with prejudice is sanctionable under Rule 11 for lack of authority and proper purpose.

Chapter 40 notices. (*See, e.g.*, Order (Dkt. No. 75, filed July 9, 2012), at 10.) Plaintiffs still have not provided such access, and the issue remains unresolved. But Anthem's and Fiesta Park's compliance with Chapter 40, or lack thereof, still must be determined in *Greystone* given Greystone's declaratory relief claims.

If Anthem and Fiesta Park are allowed to assert their substantive claims against Greystone in *Fulton Park*, the issue of Chapter 40 compliance for those developments also will have to be litigated in *Fulton Park*. In other words, if Anthem and Fiesta Park are allowed to assert claims against Greystone in *Fulton Park*, the proper scope and extent of their compliance with Chapter 40 will have to be determined in both *Greystone* and *Fulton Park*. For obvious reasons, such duplicative litigation cannot be allowed.

Now that the class claims against Greystone have been dismissed with prejudice in *Slaughter*, the claim-splitting justification for dismissing Anthem's and Fiesta Park's remaining counterclaims in *Greystone* no longer exists. Indeed, it now would constitute claim-splitting to permit Anthem and Fiesta Park to assert their claims against Greystone in *Fulton Park*. Chapter 40 compliance for Anthem and Fiesta Park must be determined in *Greystone*. To the extent Anthem and Fiesta Park are allowed to re-assert their remaining claims against Greystone at all, (*see* Order (Dkt. No. 189 in 2:11-cv-1424, filed May 28, 2013), at 6), they should only be allowed to do so in *Greystone* so as to avoid duplicative litigation.

## **II. ARGUMENT**

### **A. APPLICABLE STANDARDS**

Plaintiffs cite generally to Rule 15's liberal amendment policy as the sole support for the instant motion. (*See* Motion, Doc. 84 at 7-8.) Plaintiffs ignore the fact that failing to file an amended complaint by a court-ordered deadline, in and of itself, constitutes grounds for denial of a late-filed motion for leave to amend. *See, e.g., Spahr v. Anderson*, 2013 WL 5427975, \*3 (D. Nev. Aug. 15, 2013) (magistrate's report and recommendation to deny plaintiff's untimely motion for leave to amend), recommendation adopted by *Spahr v. Anderson*, 2013 WL 5428759 (D. Nev. Sep 25, 2013); *Allums v. Dep't of Homeland Sec.*, 2013 U.S. Dist. LEXIS 156550, \*5 FN 1 (N.D. Cal. Oct. 31, 2013) (dismissing plaintiff's amended complaint as untimely and denying leave to

1 amend ("The Court ordered Plaintiff to file any Amended Complaint by September 13, 2013;  
2 Plaintiff, however, did not file his Amended Complaint until September 25, 2013. Plaintiff  
3 provides no explanation for the delay.")). The *Spahr* Court held that a court-ordered amendment  
4 deadline trumps the liberality of Rule 15, particularly where the plaintiff failed to explain why he  
5 ignored the court's order – just as plaintiffs have failed to do here. *See Spahr*, 2013 WL 5427975  
6 at \*3 ("Despite the court's clear language, which requires no legal training to interpret, Plaintiff  
7 waited until [after the court-ordered deadline] to seek leave to amend, giving no credible  
8 explanation for his failure to file an amended complaint addressing the deficiencies pointed out in  
9 the screening order.").

10 An order imposing a deadline by which to amend is analogous to a Rule 16 Scheduling  
11 Order, requiring a showing of good cause to justify amendment. *See, e.g., Johnson v. Mammoth*  
12 *Recreations, Inc.*, 975 F.2d 604, 608-09 (9th Cir. 1992) (late-filed motion for leave to amend is  
13 governed by “good cause” standard, which focuses on diligence of party seeking amendment, not  
14 “liberal amendment policy” of Rule 15). The Court should permit amendment only where the  
15 party seeking leave demonstrates the filing deadline “cannot reasonably be met despite the  
16 diligence of the [moving] party.” *Id.* at 609 (internal citations omitted). “[T]he focus of the  
17 inquiry is upon the moving party’s reasons for [failing to meet the deadline]. If that party was not  
18 diligent, the inquiry should end.” *Id.* (internal citations omitted).

19 **B. PLAINTIFFS’ MOTION FOR LEAVE TO AMEND SHOULD BE DENIED**

20 The liberal amendment policy of Rule 15 does not apply here. Given the Court-ordered  
21 amendment deadline, plaintiffs’ motion for leave to amend is governed by the good cause  
22 standard. *See Johnson*, 975 F.2d 604, 608-09. Plaintiffs have not attempted to and cannot  
23 establish good cause for the proposed amendment. They make no attempt to explain their failure  
24 to comply with the amendment deadline nor do they offer any evidence of diligence. Rather,  
25 plaintiffs style their motion for leave to amend as if the deadline never existed.

26 Plaintiffs acknowledged the December 27 amendment deadline in their motion for  
27 clarification, clearly stating that they would timely file an amended complaint. (Motion for  
28 Clarification, at 3 fn. 1.) At no time have plaintiffs claimed they were somehow unable to

1 comply with the deadline. They do not argue that the deadline imposed any sort of hardship, nor  
 2 do they offer any evidence of their diligence.<sup>3</sup> In their motion for leave to amend, plaintiffs do  
 3 not address the deadline or their failure to comply whatsoever. As a result, plaintiffs cannot  
 4 establish the requisite good cause, and “the inquiry should end.” *See Johnson*, 975 F.2d 604, 609;  
 5 *Spahr*, 2013 WL 5427975 at \*3 (“Despite the court’s clear language, which requires no legal  
 6 training to interpret, Plaintiff waited until [after the court-ordered deadline] to seek leave to  
 7 amend, giving no credible explanation for his failure to file an amended complaint”).

8 Even if plaintiffs had met the deadline, the PAC contradicts the Court’s express (and  
 9 repeated) orders and instructions. The Court dismissed with prejudice all class claims against all  
 10 non-Uponor defendants. (Certification Order, at 58-63; Clarification Order, at 2.) Plaintiffs  
 11 include in the PAC class allegations and class claims against the non-Uponor defendants. (PAC,  
 12 ¶¶ 122, 132, 157, 165, 175, 196, 206, 214, 225.) The Court ordered that plaintiffs may not add  
 13 new parties in the amended complaint, and even identified Lamplight as the only plaintiff that  
 14 may assert claims against Greystone. (Certification Order, at 63; Clarification Order, at 2-3.)  
 15 Plaintiffs include two new parties – Anthem and Fiesta Park – asserting claims against Greystone  
 16 in the PAC. (PAC, ¶¶ 103-18.) The Court ordered that plaintiffs may not add new claims in the  
 17 amended complaint. (Certification Order, at 63; Clarification Order, at 2-3.) Plaintiffs include  
 18 three new claims against Greystone in the PAC, (PAC, ¶¶ 159-66, 180-200, 210-17), claims that  
 19 were previously dismissed by this Court. (July 9, 2012 Order, at 11-12; Jan. 14, 2013 Order, at  
 20 8.)

21 Even if Rule 15’s liberal amendment policy applied here, which it does not, *see Johnson*,  
 22 975 F.2d 604, 608-09; *Spahr*, 2013 WL 5427975 at \*3, that policy does not allow plaintiffs to  
 23 circumvent the Court’s orders. Plaintiffs have not attempted to and cannot establish good cause  
 24 for their proposed amendment. *Id.* And plaintiffs’ attempt to amend to include claims that have  
 25 been dismissed with prejudice is impermissible as a matter of law. *See Schmier*, 279 F.3d at 824.

26 <sup>3</sup> To the extent plaintiffs attempt to offer such evidence for the first time on reply, as they  
 27 have done with respect to other motions in this case (including their motion for class  
 28 certification), that is impermissible. *See, e.g., Tara Minerals Corp. v. Carnegie Mining &*  
*Exploration, Inc.*, No. 11-CV-01816, 2012 WL 2860702, at \*1 (D. Nev. July 11, 2012) (“It is  
 impermissible to introduce new arguments or evidence in a reply brief.”).

1 Plaintiffs are not entitled to a third bite at the class certification apple. The Court could  
2 hardly have been clearer in its certification and clarification orders. Plaintiffs' latest attempt to  
3 end-run around those orders should not be countenanced.

4 **III. CONCLUSION**

5 For all of the foregoing reasons, Greystone requests that the Court deny plaintiffs' motion  
6 for leave to amend. To the extent leave is granted, Greystone will respond substantively to the  
7 claims alleged in the new complaint at that time.

8 Dated: January 31, 2014

Respectfully submitted,

11 By: /s/ Richard S. Ruben

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20 HOME CORP.

21 IRI-59179v1

22 4840-3862-7096.1

**CERTIFICATE OF SERVICE**

I hereby certify that on January 31, 2014, I served a true and correct copy of the above and foregoing, **DEFENDANTS GREYSTONE NEVADA, LLC'S AND U.S. HOME CORP.'S OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE TO FILE AN AMENDED CONSOLIDATED COMPLAINT AGAINST NON-UPONOR DEFENDANTS (Doc. 84)** was made this date by electronic transmission through the court's CM/ECF program.

/s/ Nancy Babas  
An Employee of PAYNE & FEARS LLP